



DECLARATION FOR PATENT APPLICATION

#3

As the below-named inventors, we hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled PROKINETICIN POLYPEPTIDES, RELATED COMPOSITIONS AND METHODS, the specification of which

_____ is attached hereto as Attorney Docket
No. _____.

XX was filed on November 1, 2001, as Application
Serial No. 10/016,481, (Attorney Docket No.
P-UC 5016)

and was amended on (or amended through) _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment(s) referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to myself to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56.

Under Sec. 1.56, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and (1) It

Inventors: Zhou and Ehlert
Serial No.: 10/016,481
Filed: November 1, 2001
Page 2

establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or (2) It refutes, or is inconsistent with, a position the applicant takes in: (a) Opposing an argument of unpatentability relied on by the U.S. Patent and Trademark Office, or (b) Asserting an argument of patentability.

I hereby claim the benefit under Title 35, United States Code, § 119(e) of the United States provisional application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 that became available between the filing date of the prior application(s) listed below and the filing date of this non-provisional application:

| <u>Application Serial No.</u> | <u>Filing Date</u> | <u>Status</u> |
|-------------------------------|--------------------|---------------|
| 60/245,882 | November 3, 2000 | Abandoned |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

Inventors: Zhou and Ehlert
Serial No.: 10/016,481
Filed: November 1, 2001
Page 3

United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Qun-Yong Zhou

Inventor's signature: 


Date: Jan 8, 2002

Residence: United States of America

Citizenship: ~~China~~ United States of America QYB

Mailing Address: 42 Harvey Court
Irvine, California 92612

Full name of second inventor: Frederick J. Ehlert

Inventor's signature: 

Date: 8 January 2002

Residence: United States of America

Citizenship: United States of America

Mailing Address: 29 Whitman Court
Irvine, California 92612

UC Case No.: 2001-071-2

A circular black ink stamp from the Office of Intellectual Property and Trademark. The text "OIP & TM" is curved along the top inner edge, and "PATENT & TRADEMARK OFFICE" is curved along the bottom inner edge. In the center, the date "FEB 22 2002" is stamped. To the right of the date, the alphanumeric code "JC54301" is printed.

Attorney Docket No.: P-UC 5016
Serial No.: 10/016,481

By Melanie K. Webster
Melanie K. Webster, Reg. No. 45,201

February 5, 2002
Date of Signature

ONE EXECUTED SMALL ENTITY STATEMENT
(4 pages)
Attorney Docket No.: P-UC 5016
Serial No.: 10/016,481

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on February 5, 2002.

By Melanie K. Webster
Melanie K. Webster, Reg. No. 45,201
February 5, 2002
Date of Signature



PATENT
Our Docket: P-UC 5016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
Zhou and Ehlert)
Serial No. 10/016,481)
Filed: November 1, 2001)
For: PROKINETICIN POLYPEPTIDES,)
RELATED COMPOSITIONS AND)
METHODS)

Commissioner for Patents
Washington, D.C. 20231

Sir:

SMALL ENTITY STATEMENT

The U.S. Patent and Trademark (USPTO) permits parties that establish status as a Small Entity to pay certain reduced fees (all citations to 37 C.F.R. § 1.27 except as noted). To be entitled to Small Entity Status, a party must be at least one of the following:

(1) Individual person:

An individual person, including an inventor and persons to whom an inventor has transferred some rights in the invention. § 1.27(a)(1).

(2) Small business concern:

A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

"Business concern" means individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative. If the concern is a joint venture, participation by foreign business

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entities may not be more than 49%. 13 C.F.R.
§ 121.105.

The "number of employees" is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months.

"Employees" includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

(3) Nonprofit organization:

A university or other institution of higher education located in any country. § 1.27(a)(3)(ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B), (D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(C), (D).

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Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below ("Party"). Persons empowered to sign include an inventor him- or herself or an authorized officer of the assignee, where the assignee has at least an undivided part interest in the application or patent. § 1.27(c)(2).

I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

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1. The Regents of the University of California
2. NeoGene Technologies, Inc.

Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

Inventors: Zhou and Ehlert
Serial No.: 10/016,481
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I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

11/9/02
Date

Michelle S. Glasky

Name: Michelle S. Glasky, Ph.D.

Title: VP Scientific Affairs

NeoTherapeutics, Inc.
157 Technology Drive
Irvine, California 92618

ONE EXECUTED SMALL ENTITY STATEMENT

(4 pages)

Attorney Docket No.: P-UC 5016

Serial No.: 10/016,481

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By Melanie K. Webster
Melanie K. Webster, Reg. No. 45,201

February 5, 2002
Date of Signature



COPY OF PAPERS
ORIGINALLY FILED

PATENT
Our Docket: P-UC 5016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
Zhou and Ehlert)
Serial No. 10/016,481)
Filed: November 1, 2001)
For: PROKINETICIN POLYPEPTIDES,)
RELATED COMPOSITIONS AND)
METHODS)

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A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(C), (D).

Inventors: Zhou and Ehlert
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Inventors: Zhou and Ehlert
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1/9/02
Date

Michelle S. Glasky

Name: Michelle S. Glasky, Ph.D.

Title: Vice President

NeoGene Technologies, Inc.
157 Technology Drive
Irvine, California 92618

ONE EXECUTED POWER OF ATTORNEY
(2 pages)
Attorney Docket No.: P-UC 5016
Serial No.: 10/016,481

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on February 5, 2002.

By Melanie K. Webster
Melanie K. Webster, Reg. No. 45,201

February 5, 2002
Date of Signature



U.S.

Case No.: 2001-071-2

PATENT

Our Docket: P-UC 5016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
Zhou and Ehlert)
Serial No.: 10/016,481)
Filed: November 1, 2001)
For: PROKINETICIN POLYPEPTIDES,)
RELATED COMPOSITIONS AND)
METHODS)

Commissioner for Patents
Washington, D.C. 20231

POWER OF ATTORNEY BY ASSIGNEE
AND EXCLUSION OF INVENTOR(S) UNDER 37 C.F.R. § 3.71

Sir:

The undersigned assignee of the entire interest in the above-identified subject application hereby appoints CATHRYN CAMPBELL, Registration No. 31,815; DAVID A. GAY, Registration No. 39,200; CALVIN A. FAN, Registration No. 38,444; ANDREA L. GASHLER, Registration No. 41,029; JAMES J. WONG, Registration No. 34,949; DEBORAH L. CADENA, Registration No. 44,048; MELANIE K. WEBSTER, Registration No. 45,201; ASTRID R. SPAIN, Registration No. 47,956; MARGARET M. PARR, Registration No. 48,111; and KIMBERLY J. PRIOR, Registration No. 41,483, all of the firm of Campbell & Flores LLP, as its attorneys to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventors and their attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71.

Inventors: Zhou and Ehlert
Serial No.: 10/016,481
Filed: November 1, 2001
Page 2

An assignment of the entire interest in the above-identified subject application:

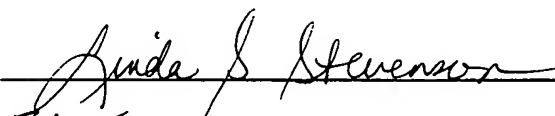
[] was recorded on _____ at
reel/frame_____/_____.

[X] is submitted herewith for recording.

Please direct all telephone calls to Cathryn Campbell at
(858) 535-9001, Facsimile No. (858) 535-8949 and all
correspondence relative to said application to the following
address:

CATHRYN CAMPBELL
CAMPBELL & FLORES LLP
4370 La Jolla Village Drive
7th Floor
San Diego, California 92122-1252
USPTO CUSTOMER NO. 23601

ASSIGNEE: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Signature: 
Date: Feb. 5, 2002

Typed Name: Linda S. Stevenson

Title: Manager, Patent Prosecution

Office of Technology Transfer
University of California
Office of the President
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

ONE EXECUTED STATEMENT UNDER 37
C.F.R. § 3.73 (b) WITH COPY OF ONE
EXECUTED ASSIGNMENT (3 pages)
Attorney Docket No.: P-UC 5016
Serial No.: 17/016,481

I hereby certify that this correspondence is being deposited with
the United States Postal Service as first class mail in an
envelope addressed to: Commissioner for Patents, Washington, D.C.
20231, on February 5, 2002.

By Melanie K. Webster
Melanie K. Webster, Reg. No. 45,201

February 5, 2002
Date of Signature



COPY OF PAPERS
ORIGINALLY FILED

STATEMENT UNDER 37 C.F.R. § 3.73(b)

Title of Application: PROKINETICIN POLYPEPTIDES, RELATED
COMPOSITIONS AND METHODS

Application Ser. No.: 10/016,481

Filed: November 1, 2001

Inventor(s): Zhou and Ehlert

Attorney Docket No.: P-UC 5016

The Regents of the University of California, a University, states that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventors of the application. A copy of the executed assignment, submitted for recording, is attached hereto as documentary evidence of the chain of title to the assignee.

The undersigned is empowered to sign this statement on behalf of the assignee.

Date: Feb. 5, 2002

Signature: Linda S. Stevenson

Name: Linda S. Stevenson

Title: Manager, Patent Prosecution

UC Case No.: 2001-071-2

ASSIGNMENT

COPY

U.C. Case No.: 2001-071-2

C&F Docket No.: P-UC 5016

For good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR(S),

1. Qun-Yong Zhou 2. Frederick J. Ehlert

hereby sells, assigns and transfers to ASSIGNEE, The Regents of the University of California, A California Corporation, having its statewide administrative offices located at 1111 Franklin Street, 12th Floor, Oakland, CA 94607-5200, and the successors, assigns and legal representatives of the ASSIGNEE all of its right, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in the invention entitled: PROKINETICIN POLYPEPTIDES, RELATED COMPOSITIONS AND METHODS

and which is found in

a) ___ U.S. provisional application filed herewith and listing the above named persons as inventors

(b) ___ U.S. patent application filed herewith and listing the above named persons as inventors

(c) X U.S. application serial no. 10/016,481,
filed on November 1, 2001.

(d) ___ U.S. Patent No.: _____, issued

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(a) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent and all rights under all International Conventions for the Protection of Industrial Property;

ASSIGNOR(S) hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment;

Inventors: Zhou and Ehlert
Serial No.: 10/016,481
Filed: November 1, 2001
Page 2


ASSIGNOR(S) further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

AND the ASSIGNOR(S) requests the Director of the United States Patent and Trademark Office to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

Executed this

Signatures of Inventor(s)

Eight day of January, 2002



Qun-Yong Zhou

ninth day of January, 2002



Frederick J. Ehlert



PATENT
Our Docket: P-UC 5016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
Zhou and Ehlert)
Serial No. 10/016,481)
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